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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ

W.P. No.4908 of 2004

PETITIONER (Applicant)		Gulam Usmaan Khan, aged about 67 years, son of Late Haji Sufi Abdul Gaffar Khan, Occupation – Agriculturalist, resident of Village Urla, Tehsil Abhanpur, District Raipur (C.G.)
	VERSUS	
RESPONDENTS (Plaintiff)	1.	Gulam Hussain Khan, aged about 45 years, son of Late Haji Sufi Abdul Gaffar Khan, Occupation – Agriculturalist, resident of Village Urla, Tehsil Abhanpur, District Raipur (C.G.)
Defendant	2.	Mohd. Akram, son of Shri Karim @ Bhai Miyan, Occupation – Agriculturalist, aged about 47 years, resident of Nayapara, Raipur (C.G.)

Present: Smt. Fouzia Mirza, learned counsel for the petitioner.
Shri Gautam Bhaduri, learned counsel for the res.No.1.
Shri B.P. Sharma and Shri Ajit Singh, learned counsel for respondent No. 2.

ORAL ORDER
(Passed on 04th September, 2006)

An application made by the petitioner herein under Order 1 Rule 10 read with Section 151 of the Code of Civil Procedure to Implead himself as a party-defendant to the Civil Suit No. 58-A/2003, instituted by the 1st respondent herein for declaration, has been rejected by the impugned order dated 23-07-2004 passed by the Court below.

(2) It is the case of the petitioner that he and the 1st respondent are direct brothers; the suit scheduled properties were purchased by their deceased-father, and that in a family settlement dated 20-03-1981, the suit scheduled properties fell to the share of the petitioner and since then he has been in actual possession and enjoyment of the same. In other

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words, the petitioner denies the claim of the 1st respondent that he is the absolute owner of the suit scheduled properties.

(3) The object of impleading a person as a party-respondent or defendant to a legal action is to avoid duplicity or multiplicity of legal actions. In view of the specific plea raised by the petitioner to contest the claim of the 1st respondent, it cannot be said that the petitioner is not a necessary and proper party to the suit. A person who is a necessary and proper party to a suit can be impleaded under the provisions of Order 1 Rule 10 of C.P.C. In that view of the matter, I allow the writ petition, set aside the impugned order of the learned Trial Judge and allow the application filed by the petitioner under Order 1 Rule 10 read with Section 151 of the Code of Civil Procedure as prayed for and the petitioner shall stand impleaded as defendant No.2. No costs.

Sd/-
Chief Justice